

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** : **CRIMINAL NO.** \_\_\_\_\_  
v. : **DATE FILED:** \_\_\_\_\_  
**JOSEPH L. BORKSON, M.D.** : **VIOLATIONS:** **21 U.S.C. § 846**  
(conspiracy to distribute  
controlled substances – 1  
count)  
**21 U.S.C. § 841(a)(1)**  
(distribution of controlled  
substances – 4 counts)  
**18 U.S.C. § 2**  
(aiding and abetting)  
Notice of forfeiture

**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. Defendant JOSEPH L. BORKSON, M.D. (“BORKSON”) was a physician licensed by the Commonwealth of Pennsylvania and practicing out of an office located at 1530 Locust Street, Philadelphia, PA. In addition to having a Pennsylvania medical license, defendant BORKSON was registered with the federal Drug Enforcement Administration (“DEA”).

2. Although defendant JOSEPH L. BORKSON, M.D. purported to operate a legitimate medical practice at 1530 Locust Street, he in fact operated a prescription “pill mill,” at which so-called patients (“customers”) paid defendant BORKSON for prescriptions for drugs, without there being any medical necessity for these prescriptions.

3. From in or around 2001 until in or about February 2007, Stephen Anderson, a/k/a Stephen McKibben, Wayne Johnson, a/k/a “Square,” Garry Fields, and James Buscemi, all charged elsewhere, and others known and unknown to the grand jury, were frequent customers of defendant JOSEPH L. BORKSON, M.D. who purchased fraudulent prescriptions for controlled substances under their own names or other names.

4. Under federal law, a physician can only issue a prescription for a controlled substance if it is issued for a legitimate medical purpose, and in the usual course of the physician’s professional practice. A prescription that does not meet these requirements is an invalid prescription.

5. The federal Controlled Substances Act groups controlled substances into five schedules – Schedules I, II, III, IV, and V – based upon the substances’ potential for abuse, among other things. Schedule II controlled substances have a high potential for abuse among drugs with an accepted medical use and may lead to severe psychological or physical dependence. Abuse of Schedule III controlled substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of Schedule IV and V controlled substances may lead to more limited physical dependence or psychological dependence compared with the drugs or other substances in Schedule III.

6. Oxycodone is the generic name for an addictive prescription painkiller that is classified under the Controlled Substances Act as a Schedule II controlled substance. When oxycodone is legally prescribed for a legitimate medical purpose, it is typically used to combat acute, severe pain. Accordingly, the prescription is usually for a modest number of pills to be taken over a short period of time. Brand names for common Schedule II controlled

substances containing oxycodone include Percocet, Endocet, and Roxicet. Oxycodone is also the active ingredient in the brand OxyContin, legitimately prescribed for the treatment of moderate-to-severe pain lasting more than a few days. Because of its controlled release property, each OxyContin tablet contains more of the active ingredient oxycodone and needs to be taken less often (twice a day) than other oxycodone-containing drugs.

7. Fentanyl is the generic name for an addictive prescription painkiller released transdermally (that is, through the skin) that is classified under the Controlled Substances Act as a Schedule II controlled substance. When fentanyl is legally prescribed for a legitimate purpose, it is typically used for the management of persistent, moderate to severe chronic pain that requires continuous, around-the-clock opioid administration for an extended period of time, and cannot be managed by other means. Duragesic is a brand name for transdermal patches containing fentanyl.

8. Hydrocodone is the generic name for an addictive prescription painkiller that is classified under the Controlled Substances Act as a Schedule II controlled substance. It is classified as a Schedule III controlled substance when dispensed in amounts of not more than 15 milligrams per dosage unit when combined with other ingredients in recognized therapeutic amounts. When hydrocodone is legally prescribed for a legitimate medical purpose, it is typically used to combat acute, severe pain. Accordingly, the prescription is usually for a modest number of pills to be taken over a short period of time. Lorcet is a brand name for a Schedule III controlled substance containing hydrocodone. Hydrocodone is also found in the Schedule III cough syrup called Tussionex.

9. Alprazolam, more commonly referred to by one of its brand names, Xanax, is the generic name for an addictive prescription sedative and anti-anxiety agent that is classified as a Schedule IV controlled substance.

10. Promethazine with Codeine, the generic name for a Schedule V narcotic sometimes branded as Phenergan with Codeine, is used for the temporary relief of coughs and upper respiratory symptoms associated with allergy or common cold.

11. From in or around 2001 through in or around March 2007, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

**JOSEPH L. BORKSON, M.D.**

conspired and agreed with Stephen Anderson, a/k/a Stephen McKibben, Wayne Johnson, a/k/a “Square,” Garry Fields, James Buscemi, and others known and unknown to the grand jury, to knowingly and intentionally distribute and dispense, not for a legitimate medical purpose and outside the course of professional practice, mixtures and substances containing detectable amounts of various controlled substances, including oxycodone and fentanyl (Schedule II controlled substances), hydrocodone (a Schedule III controlled substance), diazepam and alprazolam (Schedule IV substances), and codeine (a Schedule V controlled substance), in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D).

**MANNER AND MEANS**

It was a part of the conspiracy that:

12. Defendant JOSEPH L. BORKSON, M.D. wrote fraudulent and invalid prescriptions for thousands of dosage units of Schedule II, III, IV, and V substances (“drugs”) from various locations in and around Philadelphia, including from his office at 1530 Locust

Street, Philadelphia, PA and his condominium at 3900 Ford Road, Philadelphia, PA. These prescriptions were fraudulent and invalid because defendant BORKSON issued them not for a legitimate medical purpose and outside the usual course of professional practice.

13. Defendant JOSEPH L. BORKSON, M.D. provided his customers with fraudulent and invalid prescriptions under their own names, under others' names, and under fictitious names, often several prescriptions at a time.

14. Defendant JOSEPH L. BORKSON, M.D. provided little or no physical examination or any other medical care or treatment to his customers that would justify or necessitate, or was related to, his fraudulent and invalid prescriptions.

15. Defendant JOSEPH L. BORKSON, M.D. charged the customers cash for writing fraudulent and invalid prescriptions, and, in some instances, solicited sexual favors in exchange for the fraudulent and invalid prescriptions.

16. After obtaining fraudulent and invalid prescriptions in one or more names from defendant JOSEPH L. BORKSON, M.D., the customers either obtained the prescribed drugs by filling the prescriptions at pharmacies in and around Philadelphia, or sold the prescriptions to other customers of defendant BORKSON or to their own customers. Defendant BORKSON's customers either sold the drugs they obtained with the fraudulent and invalid defendant BORKSON prescriptions to other defendant BORKSON customers and to their own customers, or used the drugs themselves.

17. Defendant JOSEPH L. BORKSON, M.D. purchased controlled substances from a wholesale drug distributor, which he then resold to several of his customers, not for a legitimate medical purpose and outside the course of professional practice, in exchange for cash.

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### **OVERT ACTS**

In furtherance of the conspiracy and to accomplish its objects, the following overt acts, among others, were committed in the Eastern District of Pennsylvania:

1. In or before 2001, Wayne Johnson, a/k/a "Square," referred Garry Fields to defendant JOSEPH L. BORKSON, M.D. for the purpose of obtaining fraudulent and invalid prescriptions for controlled substances from defendant BORKSON.
2. In or about March 2001, Garry Fields referred Stephen Anderson, a/k/a Stephen McKibben, to defendant JOSEPH L. BORKSON, M.D. for the purpose of obtaining fraudulent and invalid prescriptions for controlled substances from defendant BORKSON.
3. On or about October 2, 2002, defendant JOSEPH L. BORKSON, M.D. wrote and dispensed a fraudulent and invalid prescription for 100 tablets of Percocet in the name of Garry Fields's mother.
4. On or about September 2, 2004, defendant JOSEPH L. BORKSON gave to W.W., a person known to the grand jury, fraudulent and invalid prescriptions for 60 tablets of OxyContin and 100 tablets of Percocet.
5. On or about July 13, 2005, defendant JOSEPH L. BORKSON, M.D. wrote and dispensed fraudulent and invalid prescriptions for 100 tablets of Lorcet and 12 ounces of Phenergan with codeine in the name of an ex-girlfriend of Stephen Anderson, a/k/a "Stephen McKibben."
6. On or about October 25, 2005, defendant JOSEPH L. BORKSON, M.D. wrote and dispensed a fraudulent and invalid prescription for 100 tablets of Percocet in the name of Wayne Johnson.

7. On or about April 6, 2006, defendant JOSEPH L. BORKSON, M.D. gave to James Buscemi a fraudulent and invalid prescription for 100 tablets of Percocet.

All in violation of Title 21, United States Code, Section 846.

**COUNT TWO**

**THE GRAND JURY CHARGES FURTHER:**

1. Paragraphs 1 through 6 of Count One are incorporated here.
2. On or about July 24, 2006, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

**JOSEPH L. BORKSON, M.D.**

knowingly and intentionally distributed and dispensed, and aided, abetted, and willfully caused the distribution and dispensing of, not for a legitimate medical purpose and outside the course of professional practice, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, that is, a prescription for 100 Percocet tablets, issued to Stephen Anderson, a/k/a “Stephen McKibben,” in the name “Juan Rodriguez.”

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.



**COUNT THREE**

**THE GRAND JURY CHARGES FURTHER:**

1. Paragraphs 1 through 6 of Count One are incorporated here.
2. On or about July 25, 2006, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

**JOSEPH L. BORKSON, M.D.**

knowingly and intentionally distributed and dispensed, and aided, abetted, and willfully caused the distribution and dispensing of, not for a legitimate medical purpose and outside the course of professional practice, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, that is, a prescription for 100 Percocet tablets, issued to Stephen Anderson, a/k/a “Stephen McKibben,” in the name “Dwight Gibson.”

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT FOUR**

**THE GRAND JURY CHARGES FURTHER:**

1. Paragraphs 1 through 6 of Count One are incorporated here.
2. On or about September 11, 2006, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

**JOSEPH L. BORKSON, M.D.**

knowingly and intentionally distributed and dispensed, and aided, abetted, and willfully caused the distribution and dispensing of, not for a legitimate medical purpose and outside the course of professional practice, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, that is, a prescription for 100 Percocet tablets, issued to Stephen Anderson, a/k/a "Stephen McKibben," in the name "Luther Payne."

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT FIVE**

**THE GRAND JURY CHARGES FURTHER:**

1. Paragraphs 1 through 6 of Count One are incorporated here.
2. On or about September 14, 2006, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

**JOSEPH L. BORKSON, M.D.**

knowingly and intentionally distributed and dispensed, and aided, abetted, and willfully caused the distribution and dispensing of, not for a legitimate medical purpose and outside the course of professional practice, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, that is, a prescription for 100 Percocet tablets, issued to Stephen Anderson, a/k/a “Stephen McKibben,” in the name “Derrick Fuller.”

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

**NOTICE OF FORFEITURE**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1) set forth in this indictment, defendant

**JOSEPH L. BORKSON, M.D.**

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses;

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, including, but not limited to, the sum of \$600,000.

If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 21, United States Code, Section 853.

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN  
UNITED STATES ATTORNEY**